



Writer's Email Address:
john.lumpkins@insightrealty.biz

April 12,2002

VIA UPS Next Day Air

Office of the Secretary
Room 159
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

RE: Notice of Proposed Rulemaking – Amendments to Telemarketing Sales Rule, 16 C.F.R. ~~Part~~ 310

Ladies and Gentlemen:

Our company wishes to comment on the Commission's proposal to create a national do not call registry. We are a real estate brokerage company and have concerns that our business may suffer significant adverse consequences if your amendments to the TSR are interpreted broadly enough to prevent us from making calls to the numbers or persons on the do-not-call-registry.

First, we express our support of the Commission's efforts to curb telemarketing abuse and to punish those who engage in fraudulent or abusive practices. Certainly any business that operates in an honest and ethical manner will ultimately benefit from properly guided efforts to stop those businesses that by their abusive practices give all businesses a bad name. As I stated we are a real estate brokerage company. **Our** licensees are REALTORS®. That is, we are members of the National Association of Realtors ("NAR"). The NAR wrote its comments to you in a March 29,2002 letter, and we largely support what the president of the NAR stated in that letter. We would emphasize, however, that it not just the Commission's proposed amendment to eliminate the exemption in the TSR (16 CFR § 310.6(c))¹ that makes the amendment overreaching and an unnecessary burden on countless honest businesses.

Insight Realty offers a flat-fee listing service to consumers who are selling their homes or other residential property. We operate out of offices in Richmond, Virginia. Our services are offered to the property owners in several states in the Southeast. **Our** primary lead source is newspaper advertisements placed by home sellers in our markets. Every morning our lead source provider emails **us** a data file with the phone numbers found in the latest local

¹ The exemption is for "calls made in which the sale or a service or good is not completed until a face-to-face presentation".



advertisements of “for sale by owner” home sellers. We call those numbers, during the allowable hours and in compliance with current law, and offer our services to these home sellers. Without getting into a lot of details of our business, we serve as the listing agent for home sellers. In our offices we have persons licensed by the respective real estate commissions in the states in which we do business. If a home seller likes what he or she hears and decides that they would like to have us represent them and provide them access to the local Multiple Listing Service we deliver to them several required documents, including a comprehensive listing agreement. This written agreement, which is the agreement between our company and our new client, is delivered via mail, overnight delivery, fax or email. Only after we have the client’s signature on our agreement do we have a sale of our service. We, like any other real estate agent enter into a written listing agreement with our clients. The bottom line is that we function essentially the same as a “traditional” real estate professional who takes a listing, except that we will not necessarily have a face-to-face presentation with our client.

We are concerned that if you simply leave the “face-to-face” exception in place (which was a focus of the NAR’s request), we may be barred from calling persons who are selling their home but who placed themselves on the FTC registry. Indeed, if you leave the exception in place but make no other changes you may be handing the “traditional” real estate brokerages a significant advantage over the relatively small but growing number of “web-based” and other non-traditional (often lower fee) real estate brokerages.

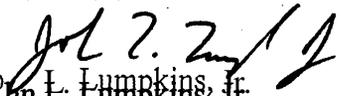
Setting aside for the moment what I just noted about the intra-real-estate-industry disparities of the face-to-face exception, if the Commission is convinced that nothing short of a national do-not call registry can achieve the objective and purpose of the Telemarketing and Consumer Fraud and Abuse Prevention Act, we urge you to consider excluding from coverage the countless businesses, like ours, that are already amply regulated. As I noted earlier, our company and each of our licensees, has to obtain a real estate license from the real estate commission in the state where our client’s properties are situate. We are governed by the real estate-related and consumer protections statutes and rules and regulations of several states. If we were ever to engage in abusive or fraudulent behavior, it would take only one phone call from an aggrieved consumer to the appropriate state real estate commission to get our undivided attention. This would seem to be true for any business that operates under a comprehensive regulatory and licensing scheme similar to the real estate brokerage business.

If the Commission adopts the amendments as proposed, you **risk** injuring many legitimate businesses. Sweeping real estate professionals into your remedy against abusive practices is not necessary to protect consumers. While we can only speak for ourselves in stating that we engage only in non-deceptive, non-fraudulent, non-coercive, legitimate communications with consumers, we have confidence in the state regulators and the overall statutory and regulatory scheme, as well as the comprehensive Code of Ethics and disciplinary mechanism that governs the over 800,000 members of the NAR. We are excited about our business and our clients are delighted when they learn for the first time that there exists an alternative to the traditional listing

April 12,2002
Page 3
Federal Trade Commission

agent. While those same clients undoubtedly would welcome a remedy that curbs or eliminates deceptive, abusive and fraudulent telemarketers, the remedy should not cut off access from the many honest businesses who seek to introduce their product or service via a friendly, non-coercive, non-deceptive phone call. We hope the Commission will rethink the proposal and at a minimum add exceptions or exclusions for 1) businesses that are already closely regulated and 2) transactions wherein the consumer must enter into a written agreement before any sale or transaction is completed.

Very truly yours,


John L. Lumpkins, Jr.
Vice President and General Counsel

JLL,Jr/mgm

cc: Donna V. Austin, Broker
Claude R. Davenport, III